

109TH CONGRESS  
2D SESSION

# S. 3563

To authorize the Secretary of the Interior to conduct studies to determine the feasibility and environmental impact of rehabilitating the St. Mary Diversion and Conveyance Works and the Milk River Project, to authorize the rehabilitation and improvement of the St. Mary Diversion and Conveyance Works, to develop an emergency response plan for use in the case of catastrophic failure of the St. Mary Diversion and Conveyance Works, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 23, 2006

Mr. BURNS (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To authorize the Secretary of the Interior to conduct studies to determine the feasibility and environmental impact of rehabilitating the St. Mary Diversion and Conveyance Works and the Milk River Project, to authorize the rehabilitation and improvement of the St. Mary Diversion and Conveyance Works, to develop an emergency response plan for use in the case of catastrophic failure of the St. Mary Diversion and Conveyance Works, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “St. Mary Diversion  
3 and Conveyance Works and Milk River Project Act of  
4 2006”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) **BLACKFEET IRRIGATION PROJECT.**—The  
8 term “Blackfeet Irrigation Project” means the Bu-  
9 reau of Indian Affairs Blackfeet Irrigation Project  
10 located within the exterior boundaries of the Black-  
11 feet Reservation.

12 (2) **BLACKFEET RESERVATION.**—The term  
13 “Blackfeet Reservation” means the Blackfeet Indian  
14 Reservation of Montana.

15 (3) **BLACKFEET TRIBE.**—The term “Blackfeet  
16 Tribe” means the Blackfeet Tribe of the Blackfeet  
17 Reservation.

18 (4) **BOARD.**—The term “Board” means the  
19 Joint Board of Control for the Milk River Project  
20 established in accordance with State law .

21 (5) **CATASTROPHIC INFRASTRUCTURE FAIL-**  
22 **URE.**—The term “catastrophic infrastructure fail-  
23 ure” means a failure of the infrastructure of the St.  
24 Mary Diversion and Conveyance Works that causes  
25 a significant disruption in the operation of the water

1 system that, if not addressed, would, as determined  
 2 by the Secretary, pose a serious threat to—

3 (A) the lives, health, or property of the  
 4 residents of the Blackfeet Reservation; or

5 (B) the economic or environmental health  
 6 of—

7 (i) the Blackfeet Reservation; or

8 (ii) the region served by the Milk  
 9 River Project.

10 (6) CHINOOK DIVISION.—The term “Chinook  
 11 Division” means the Harlem, Paradise Valley, Zu-  
 12 rich, Alfalfa Valley, and Fort Belknap irrigation dis-  
 13 tricts established in accordance with State law.

14 (7) EMERGENCY RESPONSE PLAN.—The term  
 15 “emergency response plan” means the emergency re-  
 16 sponse plan developed under section 4(a).

17 (8) FORT BELKNAP RESERVATION.—The term  
 18 “Fort Belknap Reservation” means the Fort  
 19 Belknap Reservation of the Fort Belknap Indian  
 20 Community of Montana.

21 (9) FUND.—The term “Fund” means the  
 22 Emergency Response Plan Fund established by sec-  
 23 tion 5(a).

24 (10) MILK RIVER PROJECT.—

(A) IN GENERAL.—The term “Milk River Project” means the Bureau of Reclamation project authorized by the Secretary on March 14, 1903, under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), commencing at Lake Sherburne Reservoir and providing water to a point approximately 6 miles east of Nashua, Montana.

(B) INCLUSIONS.—The term “Milk River Project” includes—

- (i) Swiftcurrent Dike;
- (ii) Lake Sherburne;
- (iii) Nelson and Fresno dams, dikes, and reservoirs;
- (iv) St. Mary, Dodson, Vandalia, and Paradise diversion dams;
- (v) Dodson pumping plant; and
- (vi) miles of associated canals, laterals, and drains.

(11) REHABILITATION PROJECT.—The term “rehabilitation project” means the St. Mary Diversion and Conveyance Works rehabilitation and improvement project authorized under section 3(b)(1).

1           (12) REPAYMENT CONTRACT.—The term “re-  
2       payment contract” means the repayment contract  
3       entered into under section 3(b)(6)(C).

4           (13) SECRETARY.—The term “Secretary”  
5       means the Secretary of the Interior.

6           (14) STATE.—The term “State” means the  
7       State of Montana.

8           (15) ST. MARY DIVERSION AND CONVEYANCE  
9       WORKS.—

10           (A) IN GENERAL.—The term “St. Mary  
11       Diversion and Conveyance Works” means the  
12       portion of the Milk River Project authorized by  
13       the Secretary on March 25, 1905, under the  
14       Act of June 17, 1902 (32 Stat. 388, chapter  
15       1093), that—

16           (i) is located within the exterior  
17       boundaries of the Blackfeet Reservation;  
18       and

19           (ii) diverts water from the St. Mary  
20       River into the North Fork of the Milk  
21       River.

22           (B) INCLUSIONS.—The term “St. Mary  
23       Diversion and Conveyance Works” includes—

24           (i) the diversion dam on the St. Mary  
25       River;

- 1 (ii) Swiftcurrent Dike;
- 2 (iii) canals;
- 3 (iv) siphons;
- 4 (v) the 5 drop structures; and
- 5 (vi) other associated canal facilities.

6 **SEC. 3. ST. MARY DIVERSION AND CONVEYANCE WORKS.**

7 (a) AUTHORIZATION OF STUDIES.—

8 (1) IN GENERAL.—The Secretary, in consulta-  
 9 tion with the State, the Blackfeet Tribe, and other  
 10 rehabilitation project stakeholders, shall conduct 1  
 11 or more studies—

12 (A) to determine the feasibility of rehabili-  
 13 tating and improving the St. Mary Diversion  
 14 and Conveyance Works to provide for sustained  
 15 environmental and economic benefit within the  
 16 St. Mary and Milk River basins; and

17 (B) to determine the environmental impact  
 18 of the proposed rehabilitation project.

19 (2) USE OF EXISTING INFORMATION AND RE-  
 20 SOURCES.—In preparing any study under paragraph  
 21 (1), the Secretary shall, to the maximum extent  
 22 practicable, use existing studies, including engineer-  
 23 ing and resource information provided by, or at the  
 24 direction of, the Blackfeet Tribe or Federal, State,  
 25 or local agencies.

1           (3) COOPERATIVE AGREEMENT WITH THE  
2           STATE AND THE BLACKFEET TRIBE.—The Secretary  
3           may enter into cooperative agreements with the  
4           State and the Blackfeet Tribe to carry out all or a  
5           portion of 1 or more studies authorized under para-  
6           graph (1) if the Secretary determines that the coop-  
7           erative agreements would be cost-effective and effi-  
8           cient.

9           (4) REIMBURSEMENT OF STUDY COSTS.—

10           (A) IN GENERAL.—Except as provided in  
11           subparagraph (B), the costs of preparing any  
12           study under paragraph (1) shall be—

13                   (i) considered to be a rehabilitation  
14                   project cost under subsection (b); and

15                   (ii) if the proposed rehabilitation  
16                   project is carried out under subsection (b),  
17                   reimbursed in accordance with the repay-  
18                   ment contract.

19           (B) BLACKFEET TRIBE.—Any Federal  
20           funds provided to the Blackfeet Tribe under a  
21           cooperative agreement entered into under para-  
22           graph (3) shall be nonreimbursable and non-  
23           returnable to the United States.

24           (5) REPORT.—Not later than 2 years after the  
25           date of enactment of this Act, the Secretary shall

1 submit to the Committee on Energy and Natural  
2 Resources of the Senate and the Committee on Re-  
3 sources of the House of Representatives any studies  
4 required to be conducted under paragraph (1).

5 (b) AUTHORIZATION OF REHABILITATION  
6 PROJECT.—

7 (1) IN GENERAL.—Not later than 180 days  
8 after the date on which a study is submitted under  
9 subsection (a)(5), the Secretary shall initiate the  
10 planning, design, and construction of the St. Mary  
11 Diversion and Conveyance Works rehabilitation and  
12 improvement project alternative that is selected  
13 under paragraph (2).

14 (2) SELECTION OF ALTERNATIVE.—The Sec-  
15 retary, in consultation and coordination with the  
16 State, the Blackfeet Tribe, and other affected reha-  
17 bilitation project stakeholders, shall select the alter-  
18 native for construction of the rehabilitation project  
19 that the Secretary determines would best meet the  
20 needs of the State, the Blackfeet Tribe, and other  
21 affected rehabilitation project stakeholders.

22 (3) COOPERATIVE AGREEMENT.—The Secretary  
23 shall enter into 1 or more cooperative agreements  
24 with the State, the Blackfeet Tribe, and the Board  
25 to provide the State, the Blackfeet Tribe, and the



1 Board with information on, and opportunities to  
2 provide comments with respect to, all aspects of the  
3 planning, design, and construction of the rehabilita-  
4 tion project.

5 (4) COST-SHARING REQUIREMENTS.—

6 (A) IN GENERAL.—Of the total rehabilita-  
7 tion projects costs—

8 (i) 45 percent shall be reimbursable;

9 and

10 (ii) 55 percent shall be nonreimburs-  
11 able.

12 (B) REIMBURSABLE COSTS.—

13 (i) FEDERAL SHARE.—The Federal  
14 share of the total reimbursable rehabilita-  
15 tion project costs, as identified in the re-  
16 payment contract, shall be 75 percent.

17 (ii) NON-FEDERAL SHARE.—The non-  
18 Federal share of the total reimbursable  
19 project costs, as identified in the repay-  
20 ment contract, shall be the lesser of—

21 (I) the amount that is equal to  
22 25 percent of the total reimbursable  
23 costs of carrying out the project; or

24 (II) \$25,000,000.

(C) FORM OF NON-FEDERAL SHARE.—The non-Federal share required under subparagraphs (A) and (B) may be in the form of—

(i) any in-kind, documented contribution of goods or services, whether provided before, on, or after the date of enactment of this Act; or

(ii) any amounts paid by the State, the Blackfeet Tribe, or other affected rehabilitation project stakeholders, whether paid before, on, or after the date of enactment of this Act, for engineering or other studies that contribute to the rehabilitation and improvement of the St. Mary Diversion and Conveyance Works.

(5) LIMITATION ON CERTAIN PROJECT COSTS.—

(A) ADMINISTRATIVE COSTS.—The total amount of funds expended by the Secretary for the administration of the rehabilitation project shall be not more than 4 percent of the amount provided for the total rehabilitation project construction budget.

(B) DESIGN AND CONSTRUCTION.—The total amount of funds expended by the Sec-

1           retary for design, and construction oversight of  
2           the rehabilitation project shall be not more than  
3           20 percent of the amount provided for the total  
4           rehabilitation project construction budget.

5           (6) CONSTRUCTION FUNDS.—The Secretary  
6           shall not obligate any funds made available for reha-  
7           bilitation project construction activities authorized  
8           under this subsection until—

9                   (A) any applicable requirements of the Na-  
10           tional Environmental Policy Act of 1969 (42  
11           U.S.C. 4321 et seq.) have been met;

12                   (B) a final engineering report has been—

13                           (i) prepared and submitted to the Sec-  
14                           retary; and

15                           (ii) transmitted by the Secretary to  
16                           the Committee on Energy and Natural Re-  
17                           sources of the Senate and the Committee  
18                           on Resources of the House of Representa-  
19                           tives by the date that is 60 days after the  
20                           date on which the report has been sub-  
21                           mitted to the Secretary; and

22                   (C) a contract providing for the repayment  
23           of reimbursable costs for the rehabilitation  
24           project has been entered into by the Secretary  
25           and the applicable non-Federal entities.

1           (7) EMPLOYMENT PREFERENCE.—The Sec-  
2       retary shall require that any contract or subcontract  
3       for the construction of the rehabilitation project in-  
4       clude a provision that the contractor or subcon-  
5       tractor provide a hiring preference to qualified mem-  
6       bers of the Blackfeet Tribe.

7           (8) DEADLINE.—The rehabilitation project  
8       shall be substantially complete by not later than  
9       January 1, 2018.

10 **SEC. 4. EMERGENCY RESPONSE PLAN.**

11       (a) IN GENERAL.—Not later than 1 year after the  
12       date of enactment of this Act, the Secretary, in consulta-  
13       tion with the State, local and tribal authorities, and other  
14       Milk River Project stakeholders, shall develop and, subject  
15       to the availability of funds, implement an emergency re-  
16       sponse plan to be followed in the event of a catastrophic  
17       infrastructure failure.

18       (b) CONTENTS.—The emergency response plan  
19       shall—

20           (1) identify the potential impacts of a cata-  
21       strophic infrastructure failure on public safety and  
22       the environment, with an emphasis on the impacts  
23       on any portions of the Blackfeet Reservation in  
24       which the St. Mary Diversion and Conveyance  
25       Works are located;

1           (2) provide a response plan to address the pub-  
2       lic safety and environmental impacts in the State  
3       and the Blackfeet Reservation within a reasonable  
4       period following a catastrophic infrastructure failure;

5           (3) define the responsibilities of emergency re-  
6       sponse personnel in the event of a catastrophic infra-  
7       structure failure;

8           (4) ensure communication and coordination  
9       among the Federal, State, tribal, and local agencies  
10      and other Milk River Project stakeholders that are  
11      responsible for implementing the emergency response  
12      plan;

13          (5) establish public notification procedures to  
14      be carried out in the event of a catastrophic infra-  
15      structure failure;

16          (6) provide for the repair or replacement of  
17      failed infrastructure with components that are com-  
18      patible with the rehabilitation project;

19          (7) include a cost-sharing agreement that—

20              (A) specifies the manner in which costs  
21              will be shared and any reimbursable amounts  
22              will be repaid if the emergency response plan is  
23              implemented; and

24              (B) is consistent with subsection (e); and

1           (8) incorporate any other elements that the  
2       Secretary, in consultation with the State, tribal and  
3       local authorities, and other Milk River Project stake-  
4       holders, determines would ensure a rapid and effec-  
5       tive response to a catastrophic infrastructure failure.

6       (c) TITLE.—Title to all project works and facilities  
7       constructed under this section shall be held by the United  
8       States.

9       (d) DEVELOPMENT COSTS.—Any costs incurred by  
10      the Secretary in developing the emergency response plan  
11      shall be nonreimbursable.

12      (e) IMPLEMENTATION COSTS.—

13           (1) IN GENERAL.—Except as provided in para-  
14      graph (2), the cost-sharing requirements of section  
15      3(b)(4) shall apply to any costs of implementing the  
16      emergency response plan under this section.

17           (2) BLACKFEET TRIBE.—Notwithstanding  
18      paragraph (1), any Federal funds provided for non-  
19      infrastructure activities carried out under this sec-  
20      tion on the Blackfeet Reservation are nonreimburs-  
21      able and nonreturnable to the United States.

22   **SEC. 5. EMERGENCY RESPONSE PLAN FUND.**

23      (a) ESTABLISHMENT.—There is established in the  
24      Treasury of the United States a revolving fund, consisting  
25      of—

1           (1) such amounts as are appropriated to the  
2 Fund under section 10(d); and

3           (2) any interest earned on investment of  
4 amounts in the Fund under subsection (c).

5 (b) EXPENDITURES FROM FUND.—

6           (1) IN GENERAL.—If the Secretary determines  
7 that a catastrophic infrastructure failure has oc-  
8 curred, the Secretary of the Treasury, on request of  
9 the Secretary, shall transfer from the Fund to the  
10 Secretary such amounts as the Secretary determines  
11 are necessary to implement the emergency response  
12 plan.

13           (2) REPORT.—Not later than 60 days after the  
14 date on which amounts from the Fund are trans-  
15 ferred to the Secretary under paragraph (1), the  
16 Secretary shall submit to the Committee on Energy  
17 and Natural Resources of the Senate and the Com-  
18 mittee on Resources of the House of Representatives  
19 a report that describes—

20                   (A) the event that triggered the determina-  
21 tion that a catastrophic infrastructure failure  
22 had occurred;

23                   (B) the amount transferred to the Sec-  
24 retary from the Fund;

1 (C) a description of any construction car-  
 2 ried out using the amounts transferred; and

3 (D) the estimated cost of completing any  
 4 construction being carried out under the emer-  
 5 gency response plan.

6 (c) INVESTMENT OF AMOUNTS.—

7 (1) IN GENERAL.—The Secretary of the Treas-  
 8 ury shall invest such portion of the Fund as is not,  
 9 in the judgment of the Secretary of the Treasury,  
 10 required to meet current withdrawals.

11 (2) INTEREST-BEARING OBLIGATIONS.—Invest-  
 12 ments may be made only in interest-bearing obliga-  
 13 tions of the United States.

14 (3) ACQUISITION OF OBLIGATIONS.—For the  
 15 purpose of investments under paragraph (1), obliga-  
 16 tions may be acquired—

17 (A) on original issue at the issue price; or

18 (B) by purchase of outstanding obligations  
 19 at the market price.

20 (4) SALE OF OBLIGATIONS.—Any obligation ac-  
 21 quired by the Fund may be sold by the Secretary of  
 22 the Treasury at the market price.

23 (5) CREDITS TO FUND.—The interest on, and  
 24 the proceeds from the sale or redemption of, any ob-



1       ligations held in the Fund shall be credited to, and  
2       form a part of, the Fund.

3       (d) TERMINATION OF FUND.—

4           (1) IN GENERAL.—If the Secretary determines  
5       that the St. Mary Diversion and Conveyance Works  
6       no longer pose an unacceptable risk of catastrophic  
7       infrastructure failure—

8           (A) the Fund shall be terminated; and

9           (B) the unexpended and unobligated bal-  
10       ance of the Fund shall be made available for  
11       the construction of the rehabilitation project au-  
12       thorized under section 3(b)(1).

13       (2) ADDITIONAL FUNDS.—Amounts made avail-  
14       able for the construction of the rehabilitation project  
15       under paragraph (1)(B) shall be in addition to the  
16       amounts made available for the rehabilitation project  
17       under section 10(b).

18   **SEC. 6. MILK RIVER PROJECT.**

19       (a) AUTHORIZED USES.—Notwithstanding any other  
20       provision of law—

21           (1) the authorized uses of Lake Sherburne Res-  
22       ervoir, St. Mary Diversion and Conveyance Works,  
23       Fresno Reservoir, Nelson Reservoir, and the  
24       Vandalia Diversion Dam shall include irrigation,  
25       flood control, the provision of municipal and indus-

1 trial water supplies, recreation, fish and wildlife con-  
2 servation and development, and water conservation;  
3 and

4 (2) the Milk River Project shall be operated—

5 (A) primarily for the purpose of irrigation;

6 and

7 (B) in a manner that does not interfere  
8 with any contracts in existence on the date of  
9 enactment of this Act that are executed under  
10 the reclamation laws.

11 (b) SERVICE AREA.—The service area of the Milk  
12 River Project is—

13 (1) the Milk River Basin; and

14 (2) the portion of the St. Mary River Basin  
15 that is accessible to the Milk River Project.

16 (c) FEASIBILITY STUDIES.—

17 (1) PRIORITY.—In consultation with the State  
18 and affected Milk River Project stakeholders, the  
19 Secretary shall prioritize the Milk River Project  
20 structures that are in need of rehabilitation and im-  
21 provement.

22 (2) PREPARATION OF STUDIES.—The Secretary  
23 or the non-Federal project sponsor shall prepare 1  
24 or more feasibility studies for Milk River Project

1 structures in order of the priority established under  
 2 paragraph (1).

3 (3) COSTS.—The costs of any feasibility studies  
 4 prepared under paragraph (2) shall be—

5 (A) considered to be Milk River Project re-  
 6 habilitation and improvement costs; and

7 (B) reimbursable if the proposed Milk  
 8 River Project rehabilitation and improvement is  
 9 carried out.

10 (4) COOPERATIVE AGREEMENTS.—The Sec-  
 11 retary may enter into any cooperative agreements  
 12 with the non-Federal project sponsors that the Sec-  
 13 retary determines to be necessary to carry out this  
 14 subsection.

15 (d) MILK RIVER PROJECT REHABILITATION AND IM-  
 16 PROVEMENT COSTS.—The cost-sharing requirements of  
 17 section 3(b)(4) shall apply to the costs of studying, design-  
 18 ing, planning, and constructing any rehabilitation of, or  
 19 improvements to, Milk River Project structures that are  
 20 carried out in accordance with a feasibility study prepared  
 21 under subsection (c).

22 **SEC. 7. BLACKFEET TRIBE.**

23 (a) PROTECTION OF LAND AND WATER RIGHTS.—  
 24 In carrying out the rehabilitation project, the Secretary  
 25 shall ensure that the land and water rights held in trust

1 for the benefit of the Blackfeet Tribe and the members  
2 of the Blackfeet Tribe are protected.

3 (b) SETTLEMENT OF MILK RIVER PROJECT  
4 CLAIMS.—

5 (1) IN GENERAL.—Notwithstanding any other  
6 provision of law, the Secretary shall resolve any  
7 land, water, environmental, and other claims of the  
8 Blackfeet Tribe against the United States relating to  
9 the portions of the Milk River Project located within  
10 the exterior boundaries of the Blackfeet Reservation.

11 (2) COSTS.—Any Federal funds expended under  
12 paragraph (1) shall be nonreimbursable and non-  
13 returnable to the United States.

14 (3) REPORT.—Not later than January 1, 2008,  
15 or if the Secretary and the Blackfeet Tribe agree to  
16 a later date, the date agreed to by the Secretary and  
17 the Blackfeet Tribe, the Secretary shall submit to  
18 Congress a report that describes the resolution of  
19 any claims under paragraph (1), including a descrip-  
20 tion of the amount of funds necessary to resolve the  
21 claims.

22 (c) BLACKFEET PROJECTS.—

23 (1) IDENTIFICATION OF PROJECTS.—The Sec-  
24 retary, in consultation with the Blackfeet Tribe,  
25 shall identify appropriate Blackfeet projects to im-

1       prove economic conditions on the Blackfeet Reserva-  
2       tion.

3               (2) FEASIBILITY STUDIES.—

4               (A) IN GENERAL.—The Secretary shall  
5       complete 1 or more studies to determine the  
6       feasibility of carrying out the Blackfeet projects  
7       identified under paragraph (1).

8               (B) USE OF EXISTING STUDIES.—In pre-  
9       paring a study under subparagraph (A), the  
10      Secretary shall, to the maximum extent prac-  
11      ticable, use any existing studies that are identi-  
12      fied by the Blackfeet Tribe.

13              (C) CONSIDERATIONS.—The Secretary  
14      may consider the use of the St. Mary Diversion  
15      and Conveyance Works in—

16              (i) the preparation of a feasibility  
17      study under this paragraph; and

18              (ii) the subsequent planning, design,  
19      and construction of any Blackfeet projects  
20      that are recommended to be carried out  
21      under this subsection.

22              (D) COOPERATIVE AGREEMENTS.—The  
23      Secretary may enter into 1 or more cooperative  
24      agreements with the Blackfeet Tribe to carry  
25      out a feasibility study under this paragraph.

1 (E) REPORT.—Not later than 180 days  
2 after the date on which a feasibility study is  
3 completed under this paragraph, the Secretary  
4 shall submit to Congress a report that—

5 (i) identifies any Blackfeet projects  
6 proposed to be carried out under this sub-  
7 section; and

8 (ii) describes the amount of funds  
9 necessary for the recommended Blackfeet  
10 projects.

11 (d) HYDROPOWER PREFERENCE.—The Blackfeet  
12 Tribe shall be eligible for preference in the development  
13 of hydropower generation on all facilities of the St. Mary  
14 Diversion and Conveyance Works located within the exte-  
15 rior boundaries of the Blackfeet Reservation on the same  
16 basis as municipalities under the Federal Power Act (16  
17 U.S.C. 791a et seq.) and the reclamation laws (including  
18 the Reclamation Project Act of 1939 (43 U.S.C. 485 et  
19 seq.)).

20 (e) EMPLOYMENT PREFERENCE.—The Secretary  
21 shall require that any contract or subcontract for the con-  
22 struction of the rehabilitation project require that the con-  
23 tractor or subcontractor provide a hiring preference to  
24 qualified members of the Blackfeet Tribe.

25 (f) BLACKFEET IRRIGATION PROJECT.—

1 (1) FEASIBILITY STUDIES.—

2 (A) IN GENERAL.—As soon as practicable  
3 after the date on which the Secretary completes  
4 an appraisal investigation of the Blackfeet Irriga-  
5 tion Project, the Secretary shall conduct 1 or  
6 more studies to determine the feasibility of re-  
7 habilitating and improving the Blackfeet Irriga-  
8 tion Project structures that are determined by  
9 the Secretary to be in need of rehabilitation or  
10 improvement based on the appraisal investiga-  
11 tion.

12 (B) NONREIMBURSABLE COSTS.—Any  
13 costs incurred in carrying out a feasibility study  
14 under subparagraph (A) are nonreimbursable  
15 and nonreturnable to the United States.

16 (C) COOPERATIVE AGREEMENT.—The Sec-  
17 retary may enter into 1 or more cooperative  
18 agreements with the Blackfeet Tribe for the  
19 conduct of the feasibility studies under subpara-  
20 graph (A).

21 (D) EMPLOYMENT PREFERENCE.—With  
22 respect to hiring or contracting for individuals  
23 to carry out a feasibility study under subpara-  
24 graph (A), the Secretary shall give preference  
25 to any member of the Blackfeet Tribe that the

1 Secretary determines to be qualified for the po-  
2 sition.

3 (2) REPORT.—Not later than 180 days after  
4 the date on which a feasibility study is completed  
5 under paragraph (1), the Secretary shall submit to  
6 Congress a report that—

7 (A) includes recommendations for the re-  
8 habilitation and improvement of the Blackfeet  
9 Irrigation Project; and

10 (B) describes the amount of funds nec-  
11 essary for the rehabilitation and improvement  
12 of the Blackfeet Irrigation Project.

13 **SEC. 8. FORT BELKNAP RESERVATION FEASIBILITY STUDY.**

14 (a) IN GENERAL.—The Secretary shall conduct 1 or  
15 more studies to determine the feasibility of developing a  
16 safe and adequate rural, municipal, and industrial water  
17 supply project for the residents of the Fort Belknap Res-  
18 ervation and surrounding communities.

19 (b) COSTS.—Any costs incurred in carrying out the  
20 feasibility study under subsection (a) are nonreimbursable  
21 and nonreturnable to the United States.

22 **SEC. 9. EFFECT.**

23 (a) IN GENERAL.—Nothing in this Act—

24 (1) create or alters—

25 (A) any Federal reserved water right; or



1 (B) any other right to the use of water;

2 (2) expands or diminishes any Federal, State,  
3 or tribal jurisdiction or authority over—

4 (A) water resources development or con-  
5 trol; or

6 (B) water rights;

7 (3) alters the private ownership of any struc-  
8 tures, canals, and laterals owned by the Chinook Di-  
9 vision; or

10 (4) prohibits the Secretary, as part of an Indian  
11 water rights settlement, from using any project fa-  
12 cilities to deliver water from the St. Mary River for  
13 the use of the Blackfeet Tribe.

14 (b) RECLAMATION LAWS.—No activity carried out  
15 under this Act shall be considered to be a supplemental,  
16 additional, or new benefit under the reclamation laws, in-  
17 cluding the Reclamation Reform Act of 1982 (43 U.S.C.  
18 390aa et seq.).

19 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) ST. MARY DIVERSION AND CONVEYANCE WORKS  
21 FEASIBILITY STUDIES.—There is authorized to be appro-  
22 priated to carry out section 3(a) \$15,000,000, to remain  
23 available until expended.

24 (b) ST. MARY DIVERSION AND CONVEYANCE WORKS  
25 REHABILITATION PROJECT.—

1           (1) IN GENERAL.—Subject to paragraph (2),  
2       there is authorized to be appropriated to carry out  
3       section 3(b) \$135,000,000.

4           (2) ADJUSTMENT.—The amount authorized  
5       under paragraph (1) shall be adjusted as necessary  
6       to account for increases in development costs after  
7       January 31, 2005, as determined using applicable  
8       engineering cost indices.

9           (c) EMERGENCY RESPONSE PLAN.—There is author-  
10      ized to be appropriated to carry out section 4 \$2,000,000.

11          (d) EMERGENCY FUND.—There is authorized to be  
12      appropriated to the Fund \$15,000,000.

13          (e) MILK RIVER PROJECT FEASIBILITY STUDIES.—  
14      There is authorized to be appropriated to carry out section  
15      6(c) \$10,000,000.

16          (f) BLACKFEET PROJECTS.—There is authorized to  
17      be appropriated to carry out section 7(c) \$1,000,000.

18          (g) BLACKFEET IRRIGATION PROJECT.—There is au-  
19      thorized to be appropriated to carry out section 7(f)  
20      \$5,000,000.

21          (h) FORT BELKNAP RESERVATION FEASIBILITY  
22      STUDY.—There is authorized to be appropriated to carry  
23      out section 8 \$1,000,000.

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